

By: Turner of Tarrant

H.B. No. 3655

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the administration and operation of the state's
3 programs for paying, prepaying, or saving toward the costs of
4 attending an institution of higher education, including the powers
5 and duties of the Prepaid Higher Education Tuition Board.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 54.602, Education Code, is amended by
8 adding Subsection (c) to read as follows:

9 (c) Unless otherwise specified, the provisions of this
10 subchapter concerning the following requirements applicable to the
11 board under this subchapter also apply to the board for purposes of
12 Subchapters G, H, I, and J of this chapter:

13 (1) membership;

14 (2) appointments of members;

15 (3) removal of members;

16 (4) ethics policy;

17 (5) training;

18 (6) board officers;

19 (7) compensation;

20 (8) meetings;

21 (9) public interest information and complaints;

22 (10) use of technology;

23 (11) program and facility accessibility;

24 (12) executive director; and

1 (13) staff.

2 SECTION 2. Section 54.641(a), Education Code, is amended to
3 read as follows:

4 (a) Not later than January 31 [~~1~~] of each year, the board
5 shall furnish without charge to each purchaser a statement of:

6 (1) the amount paid by the purchaser under the prepaid
7 tuition contract;

8 (2) the number of credit hours originally covered by
9 the contract;

10 (3) the number of credit hours remaining under the
11 contract; and

12 (4) any other information the board determines by rule
13 is necessary or appropriate.

14 SECTION 3. Section 54.701(8), Education Code, is amended to
15 read as follows:

16 (8) "Qualified higher education expenses" has the
17 meaning assigned by [~~means tuition, fees, or expenses for books,~~
18 ~~supplies, and equipment required for the enrollment or attendance~~
19 ~~of an individual at an eligible educational institution, the costs~~
20 ~~of room and board, and any other higher education expenses that may~~
21 ~~be permitted under~~] Section 529, Internal Revenue Code of 1986, as
22 amended.

23 SECTION 4. Section 54.702(a), Education Code, is amended to
24 read as follows:

25 (a) The board shall:

26 (1) develop and implement the plan in a manner
27 consistent with this subchapter;

1 (2) select the financial institution or institutions
2 to serve as plan manager; and

3 (3) adopt rules to implement this subchapter
4 ~~[governing withdrawal of money from a savings trust account and~~
5 ~~develop policies and penalties for nonqualified withdrawals].~~

6 SECTION 5. The heading to Section 54.708, Education Code,
7 is amended to read as follows:

8 Sec. 54.708. CONTRIBUTIONS AND WITHDRAWALS~~[; PENALTY FOR~~
9 ~~NONQUALIFIED WITHDRAWAL].~~

10 SECTION 6. Section 54.708(b), Education Code, is amended to
11 read as follows:

12 (b) An account owner may withdraw all or part of the balance
13 of an account on prior notice as authorized by board rules. ~~[The~~
14 ~~board shall adopt rules governing the determination whether a~~
15 ~~withdrawal is a qualified withdrawal or a nonqualified withdrawal.~~
16 ~~The rules may require an account owner requesting to make a~~
17 ~~qualified withdrawal to provide a certification of qualified higher~~
18 ~~education expenses.]~~

19 SECTION 7. Sections 54.751(2), (6), and (7), Education
20 Code, are amended to read as follows:

21 (2) "Beneficiary" means the person designated under a
22 prepaid tuition contract as the person entitled to apply one or more
23 tuition units purchased under the contract to the payment of the
24 person's undergraduate tuition and required fees at a general
25 academic teaching institution, two-year institution of higher
26 education, private or independent institution of higher education,
27 medical and dental unit, career school, or accredited out-of-state

1 institution of higher education.

2 (6) "Prepaid tuition contract" means a contract under
3 which a person purchases from the board on behalf of a beneficiary
4 one or more tuition units that the beneficiary is entitled to apply
5 to the payment of the beneficiary's undergraduate tuition and
6 required fees at a general academic teaching institution, two-year
7 institution of higher education, private or independent
8 institution of higher education, medical and dental unit, career
9 school, or accredited out-of-state institution of higher
10 education.

11 (7) "Medical and dental unit," "private [~~"Private~~] or
12 independent institution of higher education," "public junior
13 college," "public state college," "public technical institute,"
14 and "recognized accrediting agency" have the meanings assigned by
15 Section 61.003.

16 SECTION 8. Section 54.753, Education Code, is amended by
17 amending Subsection (a) and adding Subsection (c-1) to read as
18 follows:

19 (a) Under the program, a purchaser may prepay the costs of
20 all or a portion of a beneficiary's undergraduate tuition and
21 required fees at a general academic teaching institution, two-year
22 institution of higher education, private or independent
23 institution of higher education, medical and dental unit, career
24 school, or accredited out-of-state institution of higher education
25 by entering into a prepaid tuition contract with the board to
26 purchase one or more tuition units of a type described by this
27 section at the applicable price established by the board for that

1 type of unit for the year in which the unit is purchased. The
2 portion of the beneficiary's undergraduate tuition and required
3 fees for which a tuition unit may be redeemed at a particular
4 general academic teaching institution or two-year institution of
5 higher education is assigned to the tuition unit at the time of
6 purchase, and the tuition unit may be redeemed to pay that portion
7 of the tuition and fees at the general academic teaching
8 institution or two-year institution of higher education in any
9 academic year in which the unit is redeemed in accordance with this
10 subchapter. The purchaser may purchase one type of unit or a
11 combination of two or three types of units.

12 (c-1) On or before June 1, each general academic teaching
13 institution and each two-year institution of higher education shall
14 annually provide information for the next fall semester to the
15 board in a format requested by the board, to assist the board in
16 determining tuition unit sales prices for the next sales period and
17 redemption values for the next academic year.

18 SECTION 9. Sections 54.754(a) and (d), Education Code, are
19 amended to read as follows:

20 (a) In accordance with this subchapter, when a beneficiary
21 under a prepaid tuition contract redeems one or more tuition units
22 to pay costs of tuition and required fees, the board shall apply
23 money in the fund, in the amount provided by Section 54.765 to pay
24 all or the applicable portion of the costs of the beneficiary's
25 tuition and required fees at the general academic teaching
26 institution, two-year institution of higher education, private or
27 independent institution of higher education, medical and dental

1 unit, or accredited out-of-state institution of higher education in
2 which the beneficiary enrolls. Subject to Subsection (b)(2) and the
3 other provisions of this section, a beneficiary may redeem any type
4 of tuition unit for attendance at an institution or unit described
5 by this section. A general academic teaching institution or
6 two-year institution of higher education shall accept the amount
7 transferred to the institution under Section 54.765(c) when the
8 unit or units are redeemed as payment for all or the applicable
9 portion of the beneficiary's tuition and required fees.

10 (d) If a beneficiary redeems fewer tuition units of the type
11 or combination of types necessary to pay the total cost of the
12 beneficiary's tuition and required fees at the general academic
13 teaching institution, two-year institution of higher education,
14 private or independent institution of higher education, medical and
15 dental unit, career school, or accredited out-of-state institution
16 of higher education at which the beneficiary enrolls, the
17 beneficiary is responsible for paying the amount of the difference
18 between the amount of tuition and required fees for which the
19 beneficiary pays through the redemption of one or more tuition
20 units and the total cost of the beneficiary's tuition and required
21 fees at the institution or unit.

22 SECTION 10. Section 54.765(f), Education Code, is amended
23 to read as follows:

24 (f) When a beneficiary enrolls at a private or independent
25 institution of higher education, medical and dental unit, career
26 school, or accredited out-of-state institution of higher
27 education, on written authorization from the purchaser of the

1 tuition unit or units for that beneficiary, the comptroller or the
2 comptroller's authorized representative shall transfer to the
3 institution the lesser of:

4 (1) an amount equal to the current cost of the tuition
5 and required fees that would be covered by redemption of the number
6 and type of tuition units the beneficiary is redeeming if the
7 beneficiary were redeeming the unit or units at a general academic
8 teaching institution or two-year institution of higher education as
9 follows:

10 (A) for a Type I unit, at the general academic
11 teaching institution that had the highest tuition and required fee
12 cost;

13 (B) for a Type II unit, at a general academic
14 teaching institution that had tuition and required fee cost at the
15 weighted average; and

16 (C) for a Type III unit, at a two-year
17 institution of higher education that had tuition and required fee
18 cost at the weighted average; or

19 (2) an amount equal to the total purchase price of the
20 tuition unit or units the beneficiary redeems for the semester or
21 other academic term plus the portion of the total return on assets
22 of the fund attributable to that amount.

23 SECTION 11. Section 54.767, Education Code, is amended to
24 read as follows:

25 Sec. 54.767. USE OF FUND ASSETS. The assets of the fund may
26 be used only to:

27 (1) pay the costs of program administration and

1 operations;

2 (2) make payments to general academic teaching
3 institutions, two-year institutions of higher education, private
4 or independent institutions of higher education, medical and dental
5 units, career schools, and accredited out-of-state institutions of
6 higher education on behalf of beneficiaries; and

7 (3) make refunds under prepaid tuition contracts.

8 SECTION 12. Sections 54.769(b) and (c), Education Code, are
9 amended to read as follows:

10 (b) The rights of a purchaser, beneficiary, or successor in
11 interest of a purchaser or beneficiary in and under a prepaid
12 tuition contract and the payment of tuition and required fees for a
13 beneficiary under a prepaid tuition contract to a general academic
14 teaching institution, two-year institution of higher education,
15 private or independent institution of higher education, medical and
16 dental unit, career school, or accredited out-of-state institution
17 of higher education under this chapter are exempt from attachment,
18 levy, garnishment, execution, and seizure for the satisfaction of
19 any debt, judgment, or claim against a purchaser, beneficiary, or
20 successor in interest of a purchaser or beneficiary.

21 (c) A claim or judgment against a purchaser, beneficiary, or
22 successor in interest of a purchaser or beneficiary does not impair
23 or entitle the claim or judgment holder to assert or enforce a lien
24 against:

25 (1) the rights of a purchaser, beneficiary, or
26 successor in interest of a purchaser or beneficiary in and under a
27 prepaid tuition contract; or

1 (2) the right of a beneficiary to the payment of
2 tuition and required fees to a general academic teaching
3 institution, two-year institution of higher education, private or
4 independent institution of higher education, medical and dental
5 unit, career school, or accredited out-of-state institution of
6 higher education under a prepaid tuition contract.

7 SECTION 13. Section 54.774(a), Education Code, is amended
8 to read as follows:

9 (a) A prepaid tuition contract remains in effect after the
10 program is terminated if, when the program is terminated, the
11 beneficiary:

12 (1) has been accepted by or is enrolled at a general
13 academic teaching institution, two-year institution of higher
14 education, private or independent institution of higher education,
15 medical and dental unit, career school, or accredited out-of-state
16 institution of higher education; or

17 (2) is projected to graduate from high school not
18 later than the third anniversary of the date the program is
19 terminated.

20 SECTION 14. Section 54.775(b), Education Code, is amended
21 to read as follows:

22 (b) Notwithstanding Subsection (a), the board may release
23 information described by that subsection to a general academic
24 teaching institution, two-year institution of higher education,
25 private or independent institution of higher education, medical and
26 dental unit, career school, or accredited out-of-state institution
27 of higher education at which a beneficiary may enroll or is

1 enrolled. The institution or unit shall keep the information
2 confidential.

3 SECTION 15. Section 54.776, Education Code, is amended to
4 read as follows:

5 Sec. 54.776. STATEMENT REGARDING STATUS OF PREPAID TUITION
6 CONTRACT. Not later than January 31 [~~1~~] of each year, the board
7 shall provide without charge to each purchaser a statement of:

8 (1) the amount paid by the purchaser under the prepaid
9 tuition contract;

10 (2) the total number of each type of tuition unit
11 covered by the contract at any one time;

12 (3) the number of each type of tuition unit remaining
13 under the contract;

14 (4) the value of the purchasers' tuition units if
15 redeemed at any general academic teaching institution or two-year
16 institution of higher education designated for that year by the
17 purchaser in the time and manner required by the board, not to
18 exceed five institutions; and

19 (5) any other information the board determines by rule
20 is necessary or appropriate.

21 SECTION 16. Sections 54.708(c), (d), (e), and (f),
22 Education Code, are repealed.

23 SECTION 17. This Act takes effect immediately if it
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for immediate
27 effect, this Act takes effect September 1, 2019.